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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,646	07/03/2000	Steven W. Teppler	32801-888888	3621

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EXAMINER
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CURCIO, JAMES A F

ART UNIT	PAPER NUMBER
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2132

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DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/609,646

Applicant(s)

TEPLER, STEVEN W.

Examiner

James Curcio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

2. Claim 10 objected to because of the following informalities: "To select said trusted time source a date and a time" is ungrammatical. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 21 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. "Preventing changes to the system clock" includes preventing changes to the hardware making up the system clock, which is not enabled by the invention. "Preventing changes to the system clock" also includes preventing the operating system or hardware from incrementing the system clock's time value, which is not enabled by the invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-21 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 9 recite the limitation "said certificate" in line 8. There is insufficient antecedent basis for this limitation in the claims.

7. Claim 7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Combinations of said plurality of characters" is an indefinite limitation. Examiner suggested inserting "all" before "combinations."

8. Claim 21 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Changes to the system clock" is an indefinite phrase because it can denote either any change in the time value of the system clock or any change in the hardware making up the system clock.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-6, 8-11, and 15-21 rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (US005422953A).

11. As per claims 1 and 9, Fischer discloses a computer means (Figure 3, element 1), a trusted time source (Figure 3, elements 12 and 14), an API means (column 4, lines 49-53; column 7, lines 51-53; and Figure 2, element 26), an appending means (column 7, lines 13-20 and 53-56), and a saving means (Figure 1, element 4; column 7, lines 13-20 and 45-48; and column 8, lines 47-57).

12. As per claim 10, in addition to the teachings applied above, Fischer discloses a system clock (Figure 3, elements 12 and 14), an operating system means (column 3, lines 25-30), an application (column 8, lines 23-26), and a providing step (abstract; column 4, lines 49-53; column 7, lines 51-53; Figure 2, element 26; and column 11, lines 56-60).

13. As per claims 2 and 11, in addition to the teachings applied above, Fischer discloses a means for signing said saved file (column 7, lines 6-19 and column 8, lines 47-57), a means for hashing (column 7, lines 6-19 and column 8, lines 47-57), a means for signing said digest (column 7, lines 6-19 and column 8, lines 47-57), and a means for appending (column 7, lines 6-19 and column 8, lines 47-57).

14. As per claim 3, in addition to the teachings applied above, Fischer discloses a means for verifying (column 6, lines 43-58; column 7, lines 59-62; and column 8, lines 64-68).

15. As per claim 4, in addition to the teachings applied above, Fischer discloses a means for signing said saved file (column 7, lines 59-62 and column 8, lines 64-68).

16. As per claim 5, in addition to the teachings applied above, Fischer discloses that said ID is selected (column 6, lines 12-14; column 7, lines 6-19; and column 9, line 63 to column 10, line 2).

17. As per claim 6, in addition to the teachings applied above, Fischer discloses that said ID corresponding to a system used by said user is elected (column 5, lines 64-68 and column 7, lines 6-19).

18. As per claim 8, in addition to the teachings applied above, Fischer discloses a real time clock (Figure 3, elements 12 and 14 and column 3, lines 61-64) and a battery (column 4, lines 10-15).

19. As per claims 15-20, in addition to the teachings applied above, Fischer discloses that the said moment in time corresponds to an access (column 7, lines 13-19, 51-59, and 63-67), a creation (column 7, lines 13-19), a modification (column 7, lines 51-59), a receipt (column 7, lines 63-67), a saving (column 7, lines 51-56), and a transmission (column 7, lines 63-67).

20. As per claim 21, in addition to the teachings applied above, Fischer discloses the step of preventing changes to the system clock (column 3, lines 16-20 and 31-35 and column 5, lines 48-58).

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, and 15-21 above, and further in view of Ballard (US005910988A). In addition to the teachings applied above, while Fischer discloses a user ID (Fischer - column 6, lines 12-14; column 7, lines 6-19; and column 9, line 63 to column 10, line 2), Fischer fails to expressly disclose that the user ID is selected from the group consisting of a plurality of characters, an iris scan, a retina scan, a finger scan, a hand geometry, a voice, and a signature identifying said user or combinations thereof. However, Ballard discloses this feature (Ballard - column 6, lines 33-36 and 45-50 and column 14, line 62 to column 15, line 9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by selecting the user ID from this group consisting of various forms of biometric data as per the teachings of Ballard. One would have been motivated to do so in order to verify the identity of the user (Ballard - column 14, line 62 to column 15, line 9) and to combine digital time notarization into a digital signature operation (Fischer - abstract).

23. Claims 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, and 15-21 above, and further in view of Aisenberg et al (US006209090B1). In addition to the teachings applied above, while Fischer discloses pluralities of time-date stamping instances (see repeatable time-date stamping operation in Fischer - abstract) and a plurality of application calls unrelated to the operating system means (Fischer - column 8, lines 23-26), Fischer fails to expressly disclose a first plurality of operating system calls which

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are unrelated to the application and a second plurality of operating system calls relating to the application. However, Aisenberg et al discloses these features (Aisenberg et al – column 10, lines 8-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by including two pluralities of operating system calls respectively unrelated to and related to the application as per the teachings of Aisenberg et al. One would have been motivated to do so in order to allow a time stamp to be requested in a variety of settings (Aisenberg et al - column 10, lines 8-35).

24. Claim 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US005422953A) as applied to claims 1-6, 8-11, and 15-21 above, and further in view of McCall et al (US005970146A). In addition to the teachings applied above, while Fischer discloses a trusted time source (Fischer - Figure 3, elements 12 and 14), Fischer fails to expressly disclose the step of providing a tamper-evident means for labeling this time source. However, McCall et al discloses this feature (McCall et al – column 4, lines 51-67 and claim 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer by applying the tamper-evident label taught by McCall et al to the trusted time source. One would have been motivated to do so in order to protect the time source from duplication and from tampering (McCall et al – column 4, lines 51-67).

### ***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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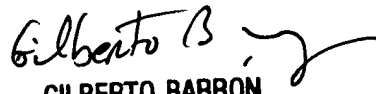
- a. Fischer (US5001752)
  - b. Byrd (US6081899A)
  - c. Walker et al. (US5923763A)
  - d. Huber et al. (US5781630A)
  - e. Hartman, Jr. (US5500897A)
  - f. Haber et al. (US-00RE34954E)
  - g. Blandford (US5189700A)
  - h. Haber et al. (US5136647A)
  - i. Durst et al. (US5022080)
  - j. Zabetian (US2001/0011350A1)
  - k. Epstein (US6601172B1)
  - l. Nissl et al. (US6530023B1)
  - m. Epstein (US6490355B1)
  - n. Fischer (US6408388B1)
  - o. Levine (US6393566B1)
  - p. Van der Kaay et al. (US6393566B1)
  - q. Walker et al. (US6263438B1)
  - r. Kotani (US6253331B1)
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Curcio whose telephone number is 703-305-8887. The examiner can normally be reached on Tuesday through Friday from 7:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached at 703-305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Curcio  
February 12, 2004  
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